

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

PERRY YATES

PLAINTIFF

V.

CIVIL ACTION NO.  
3:06-CV-78-SA-SAA

CITY OF EUPORA, MISSISSIPPI

DEFENDANT

REPORT & RECOMMENDATION

The court granted the Plaintiff's counsel's motion to withdraw from representation of the plaintiff Yates on March 6, 2008 [docket no. 27]. The court instructed Yates to obtain new counsel or indicate his intention to proceed *pro se* within ten days of the order. Yates has not indicated his desire to represent himself, nor has any attorney entered an appearance on his behalf since that time. The defendant, City of Eupora, Mississippi filed a motion to dismiss the case for failure to prosecute and/or comply with the court's March 6, 2008 order [docket no. 28].

In light of Yates' failure to either obtain counsel or indicate to the court his intent to proceed *pre se* on this matter, the undersigned respectfully recommends that the above styled case be dismissed.

The parties are referred to 28 U.S.C. §636(B)(1)(b) and FED.R.CIV.P. 72(b) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten (10) days of this date and a "party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within 10 days after being served with a copy shall bar that party, except upon grounds of plain error,

from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court.....” *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5<sup>th</sup> Cir. 1996)(*en banc*)(citations omitted).

Respectfully submitted, this, the 8<sup>th</sup> day of August, 2008.

/s/ S. ALLAN ALEXANDER  
U.S. MAGISTRATE JUDGE